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Sierra Club files lawsuit against California Coastal Commission and Marin County to protect the California Coast from over - development.

What: The Sierra Club has filed a legal action to challenge Marin Local Coastal Plan Amendment (LCPA) recently submitted to the California Coastal Commission by the County of Marin, and approved by the Coastal Commission on May 15, 2014.

The Coastal Commission erroneously approved the Marin Local Coastal Plan Update in May, ignoring repeated warnings from Sierra Club and other environmental groups, that the document was in violation of the Coastal Act.

Who: The Sierra Club versus County of Marin and CA Coastal Commission in Marin County Superior Court.

Quotes:

"We are gravely concerned that, if allowed to stand, the Commission's process and decisions regarding the Marin Local Coastal Plan Amendment will substantially weaken environmental protections along the entire California coast."

Elena Belsky, Sierra Club Marin Group

"The danger in allowing the recently approved Marin Local Coastal Plan Amendment to go unchallenged, is in the precedent set of poor process and lack of environmental review, which could become the standard for updates of other LCPs around the state. The result would be to open up the California coast to increased development and allowed uses without public process, along with decreased or even eliminated regulatory process."

Elena Belsky, Sierra Club Marin Group

BACKGROUND

Marin County, located just north of San Francisco, includes spectacular coastline that is heavily used by residents of the San Francisco Bay Area for various recreational purposes, and also represents valuable ecological habitat. The coast has remained relatively undeveloped compared to other coastal regions, in part because of a restrictive "Local Coastal Plan," adopted in 1981 under the California Coastal Act, that limited residential and other development on the coast (See: <http://www.coastal.ca.gov/lcps.html>). The 1981 plan has proved valuable as a tool for environmental advocates and local citizens to enforce high standards of environmental protection.

In May 2014, the county amended its 1981 plan in a way that opens almost two thirds of the non-federal coastal zone land to over a million square feet of new residential and commercial development. The key change allowing this new development is a reduction in lot size: the plan as amended would authorize construction of a residence up to 5,000 square feet in each 60-acre lot (or larger residences in larger lots), whereas the prior version only allowed one house on parcels of several hundred acres or more. By the county's own estimates, this change would allow the Commission to issue permits for between 129 and 210 new residences in the next ten years. Furthermore, most of this additional permitted development would be classified as "principal permitted uses," meaning that property owners would have a right to subdivide and develop with only ministerial approval from the Commission. Permits of this type may not be challenged by the public: they are not discretionary and so are not subject to appeal.

The Sierra Club has vigorously opposed this Local Coastal Plan Amendment (LCPA), partnering with local groups, communicating extensively with county and Commission staff, and commenting whenever possible in the administrative process. The Club is concerned that the new development facilitated by the proposed amendment could change the rural character and historic, productive agricultural lands of scenic Coastal Marin. In particular, the county's proposed amendment would harm ongoing agricultural production by increasing the cost of land, thus making agricultural development less economically viable.

California Law does not require that the Commission prepare a full-blown "environmental impact report" (EIR) under CEQA, but it does require that the Commission conduct an equivalent analysis, which has not been done for the Marin LCPA.

The plan amendment also violates the California Coastal Act by allowing residential development in largely undeveloped agricultural regions of Marin County without providing an adequate basis in the record for those decisions. The Coastal Act establishes several protections for agricultural lands, requiring that coastal plans (1) maximize the amount of "prime agricultural land" preserved for agricultural uses, unless continued agricultural use is infeasible, (2) limit new residential developments, particularly subdivision of large land

parcels, to areas that are already developed and could accommodate new developments, and (3) limit development that would alter natural coastal vistas, especially in "highly scenic areas." The county's plan amendment violates all three protections, without any justification provided in the administrative record.

Marin county local coastal plan is among the first to be undergoing the amendment process, and this case thus could have implications for other coastal plans in the state. For example, if the Commission's approval of the amendment's pro-development and anti-public participation provisions is upheld, the groundwork may be set for significantly increased development along the entirety of California's coast as other coastal counties update their plans. For instance, the Commission's failure to consider reasonable alternatives or mitigation measures could be adversely replicated in other coastal plan approvals.

The Commission does not cite to any authority justifying this determination, and therefore falls short of Coastal Act and CEQA requirements that it conduct a full environmental analysis. If this method of approval is upheld, the Commission's rubber stamp could allow counties across California's coast to develop the coastline with minimal environmental review.

The Marin County Supervisor whose district encompasses all Coastal Zones in Marin, Steve Kinsey, is also the current Chair of the California Coastal Commission. During his 17 years as a Marin County Supervisor, Steve Kinsey has often come under fire by Marin environmental groups as aggressively promoting development and weakening environmental regulations in Marin County.

Mr. Kinsey has previously made explicit statements to Coastal Advocates regarding his desire to reduce the role of the Coastal Commission in oversight of individual projects, and to make the Commission more, "streamlined," and, "user-friendly." His appointment to the Coastal Commission, and his subsequent rise to Chair of the Commission, put Mr. Kinsey in a position to heavily influence the Coastal Commission's process and decisions regarding the improper Marin LCP update, the creation of which Mr. Kinsey led in his role as Marin County Supervisor.

The Sierra Club is being represented in this matter by the Law Offices of John E. Sharp.

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